

## Indigenous Spectrum Sovereignty: Creating a Place in Virtual Space?

Richard M. Wheelock, PhD.<sup>1</sup>

**Abstract:** *Indigenous Peoples face a media future dominated by the creative genius of combined human and artificial intelligence. Using so-called social media and the emerging metaverse, profit-driven mega-corporations have seized the reins of power in the mass media in times when the notion of truth as the basis for human decision-making is threatened. If one considers that the media in democratic societies is charged with the responsibility of providing accurate, accountable information so the People can exercise their sovereign powers knowledgeably, democracy in Indian Country and elsewhere is clearly in dire straits. This paper will build upon the findings of another paper, presented by this author in last year's American Indian Studies Section of WSSA, to continue the process of assessing how indigenous peoples might respond to the ongoing abuses perpetrated by flawed colonial business models now dominating social media. Certain strategies, especially the exercise of spectrum sovereignty combined with insights from indigenous knowledge, might offer ways to assure that emerging artificial intelligence in social media, like Meta, can be decolonized to serve the actual needs of indigenous peoples, rather than destroy the very thought processes that support tribal sovereignty.*

This paper continues the research and analysis of internet and social media communications that was begun in last year's paper by this author that also dealt with the issues of surveillance capitalism. That business model is rampant in internet communications that tribal people and others are currently experiencing.<sup>2</sup> In analyzing the dangers of Surveillance capitalism in Indian country, this author comes to the subject by way of experience, teaching and scholarship in communications issues. My evolving interest in the internet as a communications medium in support of tribal and indigenous sovereignty in Indian/indigenous country has developed over many years, taking focus from my early experience with editing the Oneida tribal newspaper, the *Kalihwisaks*, in the 1980's. That brief experience motivated me to pursue graduate studies that focused upon the responsibilities of indigenous journalists in maintaining excellent communications with tribal members and with others in order to assure that tribal members can be effective participants in self-determination for their communities.

Along the way, I have taught at the college level for over 25 years, often offering courses dealing with media issues in indigenous country, producing a Native college student publication, the *Intertribal News*, and supporting courses in indigenous media at Fort Lewis College. The guiding principle I have relied upon is this: Native American journalists and other media professionals in Indian country are charged with the responsibility of providing accountable, timely, accurate information for indigenous people so they can exercise their sovereignty knowledgeably. In my long-standing commitment to the principles of the rights of tribal members to be informed decision-makers echoes the many Native journalists, tribal officers, tribal members and others who have struggled in the national and global media environment. That media environment has become so distorted with misinformation and disinformation in recent years that some have written that we now live in the post-truth era in media.<sup>3</sup>

---

<sup>1</sup> Richard M. Wheelock (Oneida) is Associate Professor Emeritus of Native American and Indigenous Studies, Fort Lewis College, and a former Editor of *Indigenous Policy*.

<sup>2</sup> Richard M. Wheelock, "Internet Media and Tribal Sovereignty: Some Thoughts on Rapidly Changing Perceptions," paper presentation, American Indian Studies Section, 63<sup>rd</sup> Annual Conference, Western Social Science Association, Virtual Conference, Mar. 22, 2021).

<sup>3</sup> Please see, Lee McIntyre, *Post-Truth*. Cambridge, MA: MIT Press, 2018.

I am thankful to those like myself who are caught up in the inspiring struggle for the integrity of indigenous values in media. I dedicate this paper to media professionals and many others in their continuing struggle to assure quality information and appropriate journalistic approaches to communications across the indigenous world. Theirs is the responsibility to assure that the true source of tribal sovereignty, the people of the tribal nation, are empowered and confident decision-makers, armed with accountable, accurate, timely information about the issues they face every day.

As this paper will show, the rapid deterioration of trust in communications in general, arising from hyper-commercialism and political anarchy, have created a vast lack of confidence in government and in social relations among tribal members and among all peoples of the world. The business models of huge corporate internet services, often called Big Tech, and their clients, advertisers and partisan political entities, have become threats to democratic dialogue and to common justice. The current crises brought on by what has been called surveillance capitalism is certainly among the most debilitating threats to effective communications in our times. In a troubled world now emerged in the internet mass media that seems to be losing the battle for truth and accuracy in both news media and social media, indigenous people have a unique opportunity to contribute to improved communications policies in their own communities.

As the Federal Communications Commission continues its recent efforts to help bridge the digital divide for indigenous peoples in the United States,<sup>4</sup> the chance for improving the quality of information in cybercommunications should be raised amid the dialogue throughout indigenous America. The FCC's Native Nations Communications Task Force could become a forum for not only providing the hardware and infrastructure for broadband linkages in Indian country, but initiating discussion about ways to remedy some of the worst abuses of surveillance capitalism now dominating the internet. The Biden-Harris administration has taken a very strong position on bridging the digital divide in Indian country and among other groups now outside the service areas of broadband infrastructure.<sup>5</sup> The administration's new emphasis and funding has given added impetus for improved internet service across Native American communities, further focusing on-going nascent efforts of the FCC. The Native Nations Communications Task force is overwhelmingly focused upon infrastructure issues, but conversations and interactions across Native nations could well help kick-start a much deeper consideration among media professionals and others about the very real threats to tribal sovereignty that may become apparent as tribal members become more and more emerged in internet social media. The dangers of what an influential author has called "surveillance capitalism"<sup>6</sup> could well become the undoing of many of the amazing benefits tribal nations might gain from improved internet and social media access.

Meanwhile, another of the communications arms of the US government, the Federal Trade Commission, is tasked with creating and enforcing regulations in support of federal legislation that assure fairness and accountability in trade and related communications. In internet regulations, however, the unprecedented development of surveillance capitalism has not been adequately addressed. As the US Congress and many state legislatures are currently working to pass effective laws to deal with the issues surrounding

---

<sup>4</sup> "FCC Announces Vacancies in the Membership of its Native Nations Communications Task Force and Seeks Nominations," Public Notice, Federal Communications Commission, July 2, 2019.

<sup>5</sup> "Fact Sheet: Biden-Harris Administration Mobilizes Resources to Connect Tribal Nations to Reliable, High-Speed Internet," The White House. Statements and Releases, Dec. 22, 2021. <https://www.whitehouse.gov/briefing-room/statements-releases/2021/12/22/fact-sheet-biden-harris-administration-mobilizes-resources-to-connect-tribal-nations-to-reliable-high-speed-internet/>. Accessed 28 Feb. 2022.

<sup>6</sup> Shoshana Zuboff, *The Age of Surveillance Capitalism: The Fight for a Human Future at the New Frontier of Power*. New York: Public Affairs, 2019.

surveillance capitalism, tribal nations may be forced to join with those efforts to protect indigenous people and their communities. The use of algorithmic analysis of personal data obtained in questionable ways by the world's largest internet services has become a very real threat to both private consumers and to overall governance in democratic society, many scholars, legal experts and consumers have come to recognize. Yet the political and economic interests that support current business models of such companies as Amazon, Microsoft, Facebook (Meta), Apple and Google have effectively resisted any meaningful regulation of their practices. Lobbyists for these corporations and for the internet industry as a whole, have found ways to circumvent existing notions of informed consent of users in order to collect their very personal data, analyze it with computer algorithms, then sell their results as "data points," to advertisers and political campaigns, among many others for increasingly targeted messaging. Users and their privacy rights, including those of indigenous people, are the victim of this massive economic injustice. This paper is an attempt to alert people who are working to establish effective communications for sovereign peoples in internet services to that fact and to offer a few suggestions for effective actions in Indian country.

As Native nations work with the FCC to bridge the digital divide in Indian country, policymakers should now turn to this overwhelming hidden social cost that all users of the internet pay for their access to the internet.

### **Peering into the "Black Box" of Internet Media**

It is sometimes difficult to comprehend that the communications environment has been so vastly changed by internet technology during this author's lifetime. In the 1950's as I grew up, probably few indigenous people in the United States owned their own television. In fact, I recall the very first televisions being brought to the BIA agency housing near Ignacio, Colorado, including the spectacle of a man on the roof shouting down to people inside to ask for directions to aim a roof-top antennae for the spanking new black-and-white TV set in the living room below. Who could have guessed that the furniture-quality radio in that same living room was about to be displaced by a new go-to window on the world, despite the snowy double-images that danced upon the TV screen back then. The Cisco Kid and Pancho, the Lone Ranger and Tonto, and many of my childhood media heroes were among the first media personalities to make the transition from the strictly audio media of AM radio to the visual TV depictions so many kids, including us Indian kids, would soon find irresistible. A huge market for all the accoutrements needed for the childhood games we played in the pastures and neighborhoods near our homes soon arose. We donned our boots, chaps and six-guns, and took on imaginary bad guys. It was the stuff of fantasy – the telling of parts of the heroic American Story<sup>7</sup> in a medium no one could have imagined only a few decades before. But advertising, always the main source of revenue for American media, was steadily becoming more focused upon ubiquitous, subliminal levels of messaging, eventually rising to what Robert McChesney has called hyper-commercialism years later.<sup>8</sup> The long history of news and other media that have become ever more dependent upon advertising is striking, especially as today's media is steadily merging to become the basis of internet communications. The constant barrage of advertising and the gathering of data about us now reaches into people's homes, to their smart phones and all other media that surround us daily as the "Internet of Things" produces products that surveil us as they serve

---

<sup>7</sup>Richard M. Wheelock, "'The American Story: The Impact of Myth on American Indian Policy,'" in *Destroying Dogma: Vine Deloria, Jr. and His Influence on American Society*. Steve Pavlik and Daniel R. Wildcat, eds., Golden, CO: Fulcrum Publishing, 2006, p. 105-130.

<sup>8</sup>Robert W. McChesney, *The Problem of the Media: U.S. Communications Politics in the Twenty-First Century*. New York: Monthly Review Press, 2004, p. 145-152.

so many of our needs for security and entertainment. As the internet becomes our constant companion, new algorithmic systems evaluate our behavior to a new depth, one only imagined by public relations and advertising professionals “back in the day” when we youngsters first experienced TV. McChesney’s writings about the details of that transformation of commercial media provide an excellent primer for what led us to today’s crisis in internet communications. While many still seem unconvinced about the dangers of surveillance capitalism that has become the basis of internet hyper-commercialism, a firm understanding of the imperatives of commercialism that have arisen is crucial as indigenous peoples take on the processes that will lead their communities deeper into the digital age.

Today’s medium, the incredible interactive environment of the internet and its social media, was just as unimaginable until the 1970’s as TV was nearly a generation before, especially for many who lived in Indian country. Kids today probably cannot imagine a world without the cyber media they have often become dependent upon. They now have the opportunity to interact with friends, relatives and many others in a practically unlimited global network of relationships available on their phones. Face-to-face communications, print and broadcast media are relegated to fewer and fewer hours of the day for all of us as we peer into our smart phones. It is astonishing for so many of us that in so short a span of time – barely two generations – our lives could be so transformed by the rapid development of communications technology. The black box of technology, the parts of a technology we consumers cannot really understand even as we use it, is especially daunting to most of us in the case of the internet.

### **Surveillance Capitalism: Colonialism Based Upon Exploitation of Your Human Nature**

Native peoples are very familiar with the concepts of colonial exploitation and assimilation, historically the basis of the economic, cultural and social attacks on the very identity of indigenous peoples around the world. Genocidal attacks on indigenous peoples and the accompanying assault on the natural environment remain the heritage of colonialism that began in the 15<sup>th</sup> Century in the Americas. Today’s Native American and Indigenous Studies scholarship frequently springs from amazingly effective efforts of indigenous people in de-colonizing their intellectual, social, cultural and natural environments. Unfettered colonialism and its more recent neo-colonial, neo-liberal political economy continue to challenge tribal communities and individual indigenous people’s very conception of the human responsibilities that lie at the foundation of traditional thought. It is certainly appropriate to think in terms of colonization of the mind<sup>9</sup> when one confronts those forces. As the exploitive forces of surveillance capitalism delve deeply into the lives of internet users, exploiting human nature as an economic resource, indigenous peoples often retain crucial remnants of the traditions that might help them understand and begin to counter its effects, perhaps drawing on the history of assimilation policies they have endured. Efforts to heal from the historical, intergenerational trauma that is the legacy of those policies remain an element of tribal survival today. Yet traditions that frequently focus upon the human responsibilities toward the natural world within a tribal nation’s homelands and the celebration of transitions in one’s life as one reaches maturity remain an important aspect of modern tribalism. The kinship systems of many tribes are still crucial to the systems of relatedness that are the basis of traditional thought. While mass

---

<sup>9</sup>The long-term consequences of assimilation policies conducted by such institutions as Indian boarding schools beginning in the 1870’s are instructive. Generations of Indian students were raised by these institutions, which aimed at reprogramming them to become good Americans while attacking the integrity of traditional thought. Their experiences informed a non-Indian scholar to think in terms of that kind of near-brainwashing in his 1978 book. See “Argument Two: the Colonization of Experience,” in Jerry Mander, *Four Arguments for the Elimination of Television*. New York: Quill, p. 115-153.

society and mass media have always presented challenges in those orientations, communities have found ways to retain and build upon tribal identities so vital to tribal sovereignty. One can hope that when viewing surveillance capitalism, indigenous people can muster the memory of their experiences with assimilation policies to find successful resistance strategies.

Yet the so-called black box that encapsules so much of that new internet medium has become nearly impossible for most of us to comprehend and confront effectively. Just how all these tiny devices work and the degree to which we should be leery of their impacts on our lives is beyond nearly all of us. It is only recently that such authors as Shoshana Zuboff, a professor emerita at Harvard Business School and faculty associate in the Berkman Center for Internet and Society in Harvard Law School, produced a measured analysis of the impacts of what she calls “surveillance capitalism” in internet media. Her book *The Age of Surveillance Capitalism: The Fight for a Human Future at the New Frontier of Power* (2019) reveals the on-going premeditated mining of personal data by the world’s largest internet providers, computer applications and search engines.

That corporate endeavor, which has resulted in the pervasive gathering of incredibly minute data about individuals’ personal information, including their behavior while using social media, is now used to create a kind of personality profile of segments of internet users. The advertisers, political organizers and even corrupt hackers can purchase that information to conduct their own advertising or political campaigns with a level of accuracy undreamed of when ad people once spoke of the “magic bullet”<sup>10</sup> that could predicably induce the public to buy a product or submit to political propaganda. Even cybercriminals, working as organized groups from distant locations, can come into possession of the data. Thus, clients who purchase access to highly nuanced data from such internet giants as Google, Microsoft, Facebook, Apple, Amazon or others can now tailor their targeted messages at specific segments of the users of these ubiquitous internet services. Behavioral data, the window into one’s personality and subconscious actions, are the target. Users are frequently unaware that the ads and even the search options they see on their screens are greatly influenced in the process. Privacy issues have been largely circumvented by the giant Big Tech corporations who are now among the most profitable businesses in the world.<sup>11</sup> According to *MarketWatch*, in 2020, Google’s parent Alphabet, Inc., Amazon, Apple, Facebook parent Meta Platforms, and Microsoft earned \$1.4 trillion in revenue. “Collectively, the companies topped \$1.4 trillion in revenue — which would rank 13th in gross domestic product as a nation, just behind Brazil and ahead of Australia, according to World Bank figures — and they generated \$320 billion in profit based on Generally Accepted Accounting Principles (GAAP).”<sup>12</sup>

The level of invasiveness in peoples’ lives and the degree to which their choices and their very thinking processes are manipulated by surveillance capitalism is unprecedented. Those invasions are now being felt in elections as well as in commercial advertising. It is the stuff of science fiction for those of us in journalism-related fields who have watched news morph from now-obsolete hot-lead typesetting to offset printing to online PDF versions of print media. Or from broadcast AM radio to television to online blogs and newsfeeds that do not even make attributions to the original journalists’ work in broadcast media.

---

<sup>10</sup> Largely debunked, Harold Laswell’s theory of a perfectly designed message producing a specific response across a large media audience was part of advertising lore and propaganda studies in the 1920’s. Please see “What is the Hypodermic Needle or Bullet Theory?” *interObservers*, <https://interobservers.com/what-is-the-hypodermic-needle-theory/>. Accessed 21 Mar 2022.

<sup>11</sup> Therese Poletti and Jeremy C. Owens, “Opinion: \$1.4 Trillion? Big Tech’s Pandemic Year Produces Mind-Boggling Financial Results.” *MarketWatch*, Feb. 7, 2022. <https://www.marketwatch.com/story/1-4-trillion-big-techs-pandemic-year-produces-mind-boggling-financial-results-11644096594>, Accessed 7 Mar. 2022.

<sup>12</sup> *Ibid*.

The once firmly established divisions of print vs. broadcasts media quickly merged in internet news feeds, changing the nature of news coverage and reporting. The internet is an interactive communications system that holds so much promise as an unprecedented opportunity for individuals to be in a more direct relationship with friends, relatives and the news and information they need to be engaged, informed citizens, exercising their sovereignty as the People. Instead, it has become rife with misinformation and subliminal manipulation aimed at the deepest levels of human nature. This author encourages the reader to pause here in this article to read my earlier article, cited below to discover the evidence I use to make such devastating claims.<sup>13</sup>

### **An Alternative View of Surveillance Capitalism**

As this paper is written, the insights of another author and founder of the Open Rights Group in the United Kingdom, Cory Doctorow, has taken a different position on surveillance capitalism. He remains skeptical that surveillance capitalism is as successful in its mind-control efforts as Zuboff believes. Instead, he feels that enforcement of anti-trust laws to break up Big Tech are crucial even before regulations limiting Big Tech's surveillance capitalism are enacted.<sup>14</sup> Doctorow's argument is that just regulating the huge corporate monopolies of Big Tech would actually strengthen their monopoly, since they would have to grow even larger to comply with regulations which would further erode the chances for start-ups to challenge their bad behaviors by providing alternatives to their services. Divesting their many parts would bring those smaller and more specific services back into equitable competition with start-ups who might arise to challenge their use of surveillance data. He fears that if corporations are the ones to self-regulate their policies even with the restrictions like those in the European Union General Data Protection Regulation already in place in Europe, corporate monopolies become further isolated from anti-trust laws. Many of those laws are still on the books and are simply not enforced. He notes that that Big Tech corporations that dominate the industry are the result of a history of lax anti-trust enforcement most notably begun under the Reagan Administration, when the penchant of conservatives to de-regulate everything got its start. While he does feel the algorithms and analytics of surveillance capitalism are a concern, he cites advertising statistics that seem to show those methods as only marginally successful. He goes so far as to accuse Big Tech of lying about the effectiveness of the methods of mind control which Zuboff finds so objectionable. By exaggerating the effectiveness of the use of that data in advertising, Big Tech is bamboozling advertisers into paying dearly for it, Doctorow claims.

Instead, he contends, the great threat of surveillance capitalism and its obsession with incessant data gathering and analytics has created a huge security threat from hackers who are likely to raid the data, causing incredible breaches of private information of users. His convincing argument about security of the data adds another concern to the already scary depiction of surveillance capitalism by Zuboff. For many users of the internet, both arguments should yield a similar response: something must be done to protect users from surveillance capitalism. Whether it is regulation or the breaking up of monopolies, tribes need to be aware of the consequences of doing nothing to stop it. They should consider the consequences of allowing surveillance capitalism to continue its colonization of indigenous users' personal data.

---

<sup>13</sup> Richard M. Wheelock, "Internet Media and Tribal Sovereignty: Some Thoughts on Rapidly Changing Perceptions." American Indian Studies Section, 63<sup>rd</sup> Annual Western Social Science Association Conference (Virtual). Mar. 22, 2021. Available from author.

<sup>14</sup> Cory Doctorow, *How to Destroy Surveillance Capitalism*, New York: Stonesong Digital, L.L.C., 2020.

Doctorow's analysis means tribes will have to watch the movement that aims to end the monopoly control of the internet by Big Tech and decide whether or not to support it. It will take some research on the part of tribal legal and communications experts and support from tribal members to make that extensive effort at bringing monopolies and surveillance capitalism under control. Whether one favors Zuboff's or Doctorow's characterization of surveillance capitalism, it remains a very real threat to users and their interests in the internet.

As indigenous people now work with the FCC via the Native Nations Communications Task Force to link their communities to highly desirable broadband infrastructure, it is paramount to seize the opportunity to find ways to assure that the media their peoples are about to delve into at new levels is not the trojan horse that destroys the very thought processes their people have relied upon for generations. Though many indigenous nations have already been drastically changed from their former social and political structures often deeply rooted in kinship relations, they are not simply individuals in a mass society, seeking their own best interests amid a burgeoning monopoly-dominated capitalist economy. They remain distinct peoples, committed to their identities as tribal members. That identity could well become a profitable target as surveillance capitalism dominates the lives and thoughts of internet users. Political campaigns, too, are likely to focus ever more granularly on political attitudes of indigenous people, especially as natural resources and Native activism become topics of greater economic and political interest in the years ahead.

It does not have to be that way, of course. The incredible value to human development that might come about from the intersection of artificial intelligence with human thought could be protected if governments and users can understand the threats surveillance capitalism presents and take actions to end the damage it is having on society. Already, some tribes have nativized portions of the internet to communicate with members with "members only" portions of tribal webpages. That strategy assures that members can actually study issues without undue interference. Social media can potentially provide instantaneous communications among intergenerational members of tribes if systems are provided for easy access among specific demographic groups within tribes. Some tribal nations have even worked with nearby universities to maintain language and culture with such strategies as tribal language dictionaries online.<sup>15</sup> Online journals and news sources have been created to serve the intratribal and intertribal needs of indigenous peoples.<sup>16</sup> There are many more examples of the potential and already realized value of the internet for the survival of sovereign tribal peoples. It is clear that the internet can have great value for tribal continuance, if the dangers of surveillance capitalism can be overcome.

## Conceptualizing Surveillance Capitalism

The black box of the internet, those aspects of cyberspace users generally cannot understand, remains just as dark for many people of the mass society as it does for any indigenous folk. That is because the dizzying development of cybertechnology is now aided by another of the major "black boxes" we all confront: algorithms that create and refine other algorithms in computer analytics. It is a curious fact that machine intelligence is largely based upon the processes begun by humans, but completed and often

---

<sup>15</sup> For an amazing example of a tribal language dictionary created online years ago, see *Oneida Language Grammar and Dictionary*, UW Green Bay, <https://www.uwgb.edu/dictionary/>. It infuses audio pronunciations provided by tribal elders for this generation's language development. Accessed 15 Mar. 2022.

<sup>16</sup> Many online tribal newspapers and tribal websites already serve the information needs of tribes. Intertribally speaking, among the most helpful for this paper have been *Native News Online*, <https://nativenewsonline.net>, accessed 15 Mar. 2022, and *Indian Country Today*, <https://indiancountrytoday.com>, accessed 15 Mar. 2022.

refined by an almost unfathomable system of self-generating computer programs. Here's how one journalist for a university magazine describes the use of algorithms in today's data analytics:

The simple version goes like this: you build an algorithm with a basic set of instructions and steps to follow, a rudimentary framework for the kind of predictions you want it to make. Then, you feed it a set of test data, which it tests, and then generates a new set of rules (a series of supplementary algorithms) based on the results of those tests. Then it does that again. Then again. And again and again and again until it reaches its optimal state. The end product is an algorithm with a top layer of decisions and frameworks coded by humans, a middle layer of extremely complicated math (literally called convolutional layers), and a bottom layer of its predictions.<sup>17</sup>

As the reporter says in that article, "...you put something in, you get something out, but whatever happens inside is a mystery." Amazingly, no one can actually say exactly what processes the algorithm and computer go through to accomplish the tasks. So we users are not exactly alone in our sense of ignorance when we use systems we know little about so long as we get a useable response from cybertechnology. They are just black boxes to most users.

### **The Psychology of Surveillance Capitalism**

The problem of the black box, though, cannot deter journalists and indigenous people themselves from insisting upon accountable, verifiable, accurate, timely information upon which to rely in exercising their sovereignty. They must insist upon protection from the invasions of surveillance capitalism, too, as this paper reveals. Those obvious facts may be clear to competent journalists, but to readers or "users," as they are known in cyberspace, it is increasingly hard not to simply suspend disbelief when they experience what seem to be questionable "facts" or simply are unaware of the surveillance and manipulation they are subject to. A fact of human nature, the ability to suspend disbelief so a narrative can be considered like a believable, but fictional "story," is deeply rooted in oral traditions of indigenous people as well in the great literature of mass society. Suspension of disbelief is usually considered as a literary or media dynamic, where audience members slip into a condition of receptiveness based upon trust so the larger truths can be conveyed.<sup>18</sup> In the case of internet surveillance, receptiveness is capitalized upon, as this paper contends. People want to trust their sources of information and unless they are consciously aware of manipulation, they are "tuned in" to the messages targeted at them by advertisers and political campaigns who use data points provided for a fee from Big Tech surveillance capitalists like Facebook. When those clients tailor professionally nuanced messages to members of specific demographic groups, they can create enough enthusiastic followers to provide a sense of belonging among similarly targeted individuals to act unsuspectingly upon even false information.<sup>19</sup> If only a small percentage of those targeted individuals become motivated enough, they can have a larger influence in elections than less motivated people who are not targeted, especially if the message urges them to reach out to like-minded others at a specific, hypertexted site.

In fact, the algorithms designed by those involved in surveillance capitalism frequently depend upon deeply subconscious human behaviors for their success. Algorithms can be designed to evaluate a user's mental state from the many pieces of data easily compiled by invasive algorithms, practically in real time.

---

<sup>17</sup> Stuart Montgomery, "What's in an Algorithm? The Problem of the 'Black Box,'" *Tufts Observer*. Feb. 25, 2019. <https://tuftsobserver.org/whats-in-an-algorithm-the-problem-of-th-black-box/> (accessed 4 Mar. 2022).

<sup>18</sup>"Suspension of Disbelief," *Wikipedia*, [https://en.wikipedia.org/wiki/Suspension\\_of\\_disbelief](https://en.wikipedia.org/wiki/Suspension_of_disbelief), Accessed 15 Mar. 2022.

<sup>19</sup> Shoshana Zuboff, *The Age of Surveillance Capitalism: The Fight for a Human Future at the New Frontier of Power*. New York: Public Affairs, 2019, p. 306.

This brief discussion of the subconscious and often psychological impacts of surveillance capitalism on users is but a primer on behavior modification levels that are currently deployed as users are manipulated by advertisers and political advocates. In also guiding and limiting searches online, programmers can push unsuspecting users into decisions that would not be considered otherwise. In writing this paper, this author is mindful that his internet sources cited in this paper are likely to be pre-selected by algorithms embedded in the Google search engine that has been tracking him since his earliest days online. Though I have used DuckDuckGo frequently, an encrypted search engine that does not gather data in ways Google or Microsoft Edge or many other engines do, I am aware that the sites I visit online frequently do gather that data piecemeal anyway. I simply have to be conscious of the risk of exposure to behavior modification processes aimed at me when I conduct research online. When one couples such dangers with the fact that social media use techniques to addict users to extended screen time on their services, one can easily comprehend the dangers to society and to tribes that can result. One's personal identity and even one's persona, which one carefully crafts and presents to others in Facebook, are quickly ascertained by algorithms, then used to manipulate user behavior using proven stimulus/response methods<sup>20</sup> from their own panoply of tools.

How can tribal nations, who are now in the process of upgrading their communities' internet access through broadband, hope to ameliorate such built-in aspects of the surveillance capitalism? After all, businesses, governments of all levels, as well as private users quickly come to rely upon the internet as a matter of survival in today's political and social milieu. What are the options and strategies for displacing or regulating the extractive business model that makes the internet affordable to all who have access? After all, we do not pay exorbitant fees for services from such services as Facebook (Meta), Microsoft (ABC), Google, Amazon or Apple. Those massive corporations instead have reaped huge profits, among the highest ever recorded, by charging not users, but by selling personal data they collect, processing it using their own highly secretive, "proprietary" algorithms. The sale of that data to companies and organizations is extremely profitable, practically guaranteeing the client will have data they themselves can also subject to propriety algorithms for their purposes, commercial, political and even criminally fraudulent. Such data becomes invaluable in a competitive political economy where any advantage is crucial, especially in an economy where corporate boards prioritize stockholder profits as the main priority. It is the basis of the business model for Big Tech.

So what can be done about all this nefarious data-gathering and manipulation of users? Are Native nations doomed to simply hope that federal agencies will enforce privacy rights? For those in the fields of journalism, the prospect of reporting accurate, accountable information could become a nearly meaningless task when internet users are already swayed by the behavior modification techniques of clients using behavior modification techniques. Media like newspapers and broadcast news have always relied almost entirely upon advertising for their revenue, a fact that has become overwhelmingly obvious to those who might evaluate the performance of news journalists. Their jobs depend on bringing readers to the publication, whether it is online or in print or broadcast media. That has always created problems when news articles touch upon the ethics of businesses or business people, for instance. Withdrawal of advertising can quickly muzzle journalists who would otherwise report diligently on such issues in our often-monopolized economic advertising market today. Market forces have always pressured for their own benefit, as a matter of course. But those abiding pressures against the free press now pale in comparison to the manipulation of users' subconscious desires and fears to produce profitable outcomes

---

<sup>20</sup> "Stimulus Response Theory (Definition+Examples)," *Practical Psychology*. <https://practicalpie.com/stimulus-response-theory/>. Accessed 21 Mar 2022.

or to further political ambitions. Let us take a look at some of the dynamic trends that may provide some guidance in avoiding the pitfalls of surveillance capitalism.

### **Framing the Threat of Surveillance Capitalism to Indigenous People**

The ideas of “Indigenization,” “Compartmentalization,” or “Enclavement” in considering cultural innovations into tribal communities arose in this author’s graduate studies at the University of Arizona’s American Indian Studies MA program in the 1980’s. In his graduate course entitled Dynamics of Tribal Society, Cherokee anthropologist Robert K. Thomas often discussed the resilience of tribal identities and the continuing maintenance of peoplehood despite the generations of assimilation policies that were aimed at them.<sup>21</sup> Through the processes of nativization as Thomas perceived it, unprecedented innovations might well be brought into a tribe’s cultural structures and beliefs over a generation or more, sometimes revising those innovations and tribal systems so they became a vital part of the existing relationships among cultural features. To do that, tribal members would need to consider how the innovation fit into their existing cultural patterns so as not to overly disrupt those norms that form the tribal group identity and tailor selected portions of innovations so they fit.

Examples like the horse coming to the Plains nations show that even spiritual aspects of the being or process involved could be nativized over time, strengthening and modifying the existing tribal culture under changing conditions without unduly disrupting the nation’s sense of identity. It is a theoretical concept that purports to explain how tribes have been able to maintain their integrity as distinct peoples despite the many demands of changing cultural, social and political environments. Thomas emphasized that this dynamic of adaptation has been practiced by many groups, including North American tribes and others since long before contact with European colonization, since tribes frequently dealt with the innovations they might “discover” themselves or experience in interactions with nearby tribes. It is a response to innovations that tribes are employing, this author contends.

Thomas went on to discuss other strategies, such as “enclavement,” which is the conscious rejection of innovations that are judged to be either too much in conflict with tribal values or are simply not useful. In doing so, a community might shun at least portions of certain behaviors or material innovations in order to preserve their own values. Under systems of colonization, when alien values were imposed upon groups who consciously enclaved themselves against them, conflict or social disorientation might result, often resulting in years of suppression of traditions by colonizers. It is a strategy that maintains the distinctiveness of tribes from each other but is difficult to sustain over generations of colonization. Nonetheless, examples like the Rio Grande Pueblos in shunning much of the Spanish “culture of the conquest,”<sup>22</sup> while adapting other portions of Catholicism into their ceremonial cycle after the Pueblo Revolt of 1680 show that it can be a successful way to resist assimilation, at least when compromises can be negotiated with colonizers. In the case of internet usage among tribal peoples, though, subtle social and economic pressures of modernization make enclavement against a technology like the internet problematic, to say the least.

---

<sup>21</sup> Robert K. Thomas, “Community and Institution Among American Indians.” In *Traditional and Non-Traditional Services in American Indian Mental Health*, eds. Yvonne A. Red Horse, Edwin Gonzalez-Santini, Patricia A. Tolson-Gonzalez and Sidney Bean, 316-330. Tempe: Arizona State University School of Social Work, no date.

<sup>22</sup> For a description of the assimilation program the Spanish conquerors hoped to force upon the Pueblo and other groups in what is now called the Southwest, see Edward H. Spicer *Cycles of Conquest: The Impact of Spain, Mexico and the United States in the Southwest, 1533-1960*. Tucson: U. of AZ Press, 1962, p. 283-285.

A third strategy is best illustrated by Thomas' concept of "compartmentalization," where individuals, sometimes with the help of advice of cultural leaders, learn to move back and forth from the demands of the mass society and those of the local, tribal community. This strategy requires that individuals are aware that they are shifting between social and cultural worldviews, so they do not experience overwhelming culture shock, learning to act appropriately in each social and cultural system without the trauma of anomie one might otherwise experience. Moving back and forth over cultural boundaries well defined by tribal cultural authorities allows indigenous people to feel relatively comfortable interacting with members of other societies while retaining their allegiance to their cultural roots. Thomas and others have discussed other strategies for the survival of tribal distinctiveness, but for this paper, these three are useful in the discussion of internet media and its business model based upon surveillance capitalism. In the real world, it is important to know that the three strategies rarely operate in isolation from each other. Instead, resilient tribal cultures have often relied upon piecemeal use of all three strategies to maintain their own peoplehood over the generations.

Obviously, internet social media is among the more unprecedented innovations in recent human history. One can argue that entire thought patterns, as well as cultural norms, have been impacted among all people who have become dependent upon the technologies involved since the 1970's at least. Often, the community processes of nativization, enclavement and compartmentalization have been difficult to sustain given the very short time span that tribes have to adapt in conditions of forced assimilation. Surveillance capitalism is a very recent change in the fundamental relationships of personal communications, as this paper's opening comments have emphasized, and it remains unclear whether certain features of internet social media are truly a benefit or a threat to social cohesion and survival of group identities. Of course, one must consider the on-going very positive features users have discovered and the dangers to social identity and social solidarity that have also emerged from the rapid cultural adoption of the internet in just a few decades. In the larger mass society, the scholarship on political, social, economic and cultural adaptation of the internet is on-going, revealing the depth of change that is occurring among individuals and among group identities.<sup>23</sup> Though there seems to be little research specifically studying impacts upon indigenous peoples, one can assume that intergenerational aspects of the change will certainly remain a concern as time passes, a fact that is of special note for indigenous peoples. As always with new cultural innovations, it is young people who will live with the consequences of adaptation to such a paradigm shift. It is instructive to consider the concepts of adaptation Thomas delineated, since the new paradigm of communications on the internet are so revolutionary. Should indigenous peoples find ways to nativize the internet, despite possible negative effects of surveillance capitalism, or should they try to reject it by enclaving themselves from it? Or should they carefully educate their members to the dangers and confidently support their members to move into the world of surveillance capitalism, then return relatively unscathed to their own less exploitive values. One might conjecture that all three alternatives can function, at least partially, as tribes bridge the digital divide. As they exercise their internet and spectrum sovereignty today, they have an opportunity to demand some powerful changes in how the new innovative technology is translated into their communities. That is a fourth possibility, even though it is difficult to find effective means to force the mass society to change its imposition of current standards within the technology to make it palatable to tribal cultural values. Only a revolutionary shift in the perspective of the mass society could make that possible. Little in human

---

<sup>23</sup> A quick overview of recognized impacts of internet usage, see "Effects of the Internet on Society," 29 Sept. 2020. <https://www.cybersecurityintelligence.com/blog/the-effects-of-the-internet-on-society-5220.html>. Accessed 21 Mar 2022.

development is permanent, so cultural adaptations to later business models may be more attractive to tribes than surveillance capitalism.

Of course, many if not most, tribal people have already experienced and are presently using internet technology daily. Many people from indigenous backgrounds, especially youth, are embracing the new media, in fact. Some find that it makes possible a new level of international solidarity among indigenous peoples around the world. One very recent book reveals the enthusiasm many activists feel toward these media. In emphasizing the “...impact of social media in expanding the nature of indigenous communities and social movements,” the statement on the book’s back cover asserts that:

*Social media has bridged distance, time, and nation states to mobilize Indigenous people to build coalitions across the globe and to stand in solidarity with one another. These movements have succeeded and gained momentum and traction precisely because of the strategic use of social media. Social media - Twitter and Facebook in particular - has also served as a platform for fostering health, well-being, and resilience, recognizing indigenous strength and talent, and sustaining and transforming cultural practices when great distances divide members of the same community.<sup>24</sup>*

The book is a celebration of the now-available social order created by the use of a new innovation in communication. One is quickly reminded of the “Idle No More” movement in Canada as well.<sup>25</sup> These are examples of the rapid adaption by mostly young activists to new opportunities to express their views and identities and to greatly expand their understanding of indigenous values that are shared among peoples around the world. In that intertribal, international realm of communications, one is compelled by the enthusiasm to adapt to the opportunities for indigenous development, often in the heat of events, such as the protest resistance against the Dakota Access Pipeline.<sup>26</sup> There are many other examples of the use of social media by activists and others that illustrate the very rapid shift among Native people toward communications on the ‘net.

### **Considering Solutions to Problems of Surveillance Capitalism: The Intratribal Sphere**

Within tribal communities as well, there are well established internet usage patterns, even though it has only been some forty years since the internet and its social media became widely available and more and more affordable. Many younger community members have been using computer technologies in libraries and schools for years. In fact, parents might consider how

surveillance capitalism is socializing children. As smart phones become more affordable, it is likely that some youths have jumped past the reliance upon desktop and laptop computing to the use of those phones without much consideration of the impact of surveillance capitalism. That is an important dynamic principle of the development of this technology – it is not only appealing for its utility in communications,

---

<sup>24</sup> Bronwyn Carlson and Jeff Berglund, *Indigenous People Rise Up: The Global Ascendancy of Social Media Activism*. New Brunswick, Camden, Newark, New Jersey and London, Rutgers University Press, 2021. Back Cover statement.

<sup>25</sup> *Idle No More Indigenous Revolution*. <https://idlenomore.ca/>. Accessed 21 Mar. 2022.

<sup>26</sup> “No DAPL,” #MOVEME: *A Guide to Movements in Social Media*, <https://moveme.berkeley.edu/project/nodapl/>, Accessed, 15 Mar. 2022.

but vital for the development of the persona and social capital of its users. Meanwhile, older generations are sometimes left out of the loop, creating a new kind of generation gap in tribal and many other place-based communities. That fact, too, is a challenge for tribal continuance, but it is amazing how well some communities have dealt with intergenerational aspects as they continue to indigenize their social media. Storytelling, for example, has become one use of the media among some tribal peoples as is mentioned earlier in this paper. Language and culture sites can be accessed with little effort for some forward-looking tribes who have established such web-based opportunities and even regular Zoom sessions for their communities. Thus, social media and the internet remain integral to many vital actions currently underway throughout Indian country.

It does not seem a viable option today, then, for a tribe to simply enclave itself from the internet or even just from social media. Cultural boundaries are rarely impenetrable enough today for such a strategy even if tribes decided they do not wish to be a part of the internet revolution. Generations of indigenous peoples have been able to fend off some of the intrusions of mass society in a piecemeal fashion, but this revolution is so pervasive that it is hard to imagine a way to constrain it without some kind of legal process, like tribal regulations, perhaps, to reduce negative impacts. Look for more on that strategy in the next few pages of this paper.

Little time for communities to formulate cultural and social adaptations is available these days because innovation in the internet technology is so rapid. To really apply the older scholarly analysis that relies upon the ideas of nativization, compartmentalization and enclavement, one would hope to allow for years of experience among tribal members in the processes of social decision-making, which is often somewhat informal and a result of consensus. Those conceptual tools may be useful to tribes working on bridging the digital divide as touchstones, but here is a paradigm shift of unimagined proportions, making entire lines of reasoning obsolete or in need of complete refactoring. Tribal people, in exercising their data sovereignty and spectrum sovereignty, might well document their usage patterns as they design new internet opportunities for their members now that broadband systems are now available, added speed and many more options in operations. Considering the use of those tools in the evaluation of how tribal members are already using the internet, looking for ways to assure tribal values are available for their use in these social processes, and creating new or upgraded language and culture programs could be great benefits. The reality of surveillance capitalism, though, should also be considered, since tribal members will be exposed to that risk in today's internet use.

Internal tribal adoption and adaptation to broadband internet are a revolutionary undertaking, just as it has been for the mass society that surrounds native nations. In the case of such an unprecedented communications technology, the time span so valuable in choosing cultural adaptations within tribes is thus severely limited. It seems to be a characteristic of our times that communities must rush to adapt in the maintenance of the group's identity. In the intratribal realm of communications, though, there are some important points to consider. It is the realm where tribal values are most pervasive, where one might assume face-to-face, intergenerational communications could be predominant. In this realm, there are often very clear interpersonal signals that help define appropriate behaviors for tribal members, leading to a relatively comfortable feeling of being home among one's kinfolk and close friends. Even in this realm, smart phones and the "internet of things"<sup>27</sup> are making inroads in those older communications patterns, sometimes temporarily displacing them as time for talking together is greatly reduced while

---

<sup>27</sup> Peter Chiang, "How the Internet of Things is Reshaping Video Surveillance," *Security Magazine.com*. <https://www.securitymagazine.com/articles/96164-how-the-internet-of-things-is-reshaping-video-surveillance>. Accessed 6 Mar. 2022.

users attend to their private audiences online. It is interesting to note that people sometimes complain about the use of social media at times when family/community time should ideally be the locus of attention for all who are present. In restricting the use of cameras at certain cultural events, for example, tribes have frequently expressed similar desires in the past, revealing a precedent for expecting people to be fully present in the moment and requiring that inappropriate technologies not interfere with that moment. It is unclear how ever-present social media via smart phone fits with this kind of restriction, but it is one of the points of discussion that can be raised in conversations at the face-to-face level of communications. Such a discussion among kinsfolk and friends might well lead to fuller discussions of the larger concerns expressed in this paper about surveillance capitalism. It is one of the many possible examples of informal dialogues that can lead to community awareness of the issue as part of the on-going processes of indigenization in terms the community can appreciate.

Another strategy for internal tribal development of policies to deal with surveillance capitalism is local communication and education systems. Tribal schools and tribal newspapers especially have been at the center of information supportive of tribal sovereignty. Computer literacy is one topic that can focus upon educating people about the dangers involved. That topic can be a regular part of news articles and in education programs and curriculum, especially when those creating the message are themselves fully committed to the safe use of the internet. It is important to leave the tailoring of messages/curriculum to those teachers, news editors/reporters and special human resources they have available, like IT personnel of the tribe as computer literacy is both a personal and a technical issue. It might even be valuable to educate elders who are not very computer literate, since the intergenerational communications can be fostered as youth interact with grandparents in the teaching of those skills. It is an opportunity with rich possibilities for encouraging inclusion of elders and the building of respect across generations. Also, tribal groups maintain or have access to many well-established internal forums that can help them digest the rapid changes internet social media are thrusting upon them. A quick review of a tribe's newspaper will reveal a number of community organization's ongoing efforts to maintain community cohesiveness. Many groups like woman's organizations or tribal school support groups could feature conversations about internet issues that might affect them, including the issues of surveillance capitalism. Obviously, tribal members are the best resources in such interpersonal, face-to-face discussions. One can hope that computers do not further isolate generations as so many forces of the mass society seem to do.

Higher education within tribal communities provides another appropriate crucible for these processes at this moment. Tribal colleges are already a vehicle for developing perspectives on many transformative innovations, especially in job-related fields also affected by new technologies. As many scholars have learned, tribal colleges have emerged as leading proponents for maintaining tribal traditions in the face of innovations of all kinds.<sup>28</sup> Deeply committed to tribal cultural values, they remain one of the prime vehicles for adaptation of cultural innovation, too. The older idea of nativization, for instance, has been recast as "indigenization" in some coursework and in workshops and symposia for some time. One need only look at a tribal college website to find such events and even courses that might be excellent vehicles for computer literacy lessons. One example where a tribal college offers an annual symposium is Northwest Indian College, located in the Lummi Nation, for instance. Among its many successful programs is the annual Vine Deloria, Jr. Symposium, which draws innovative scholars and educators from throughout the Northwest and throughout the tribal college system and beyond. The inclusion of traditional elders and other cultural leaders at the three-day symposium creates an unusually rich

---

<sup>28</sup> The Tribal College website demonstrates the appropriateness and vigor of the 37 tribal colleges in the US. Those colleges have already played a major role in indigenizing the internet. Please see *Tribal College: Journal of American Indian Higher Education*. <https://tribalcollegejournal.org/> . Accessed 22 Mar. 2022.

environment for discussing current issues and expanding the network of professionals and culturally committed elders throughout the region.<sup>29</sup> Again, many tribal colleges can boast of similar opportunities for development of culturally adaptive strategies. A session on the transformations in Indian country brought on my innovative technologies like broadband development in the last generation could be especially powerful in that kind of environment. Issues of surveillance capitalism could be a vital topic today.

Before leaving the intratribal sphere of communications, it is important to consider another aspect of sovereignty. The power of a community in naming, then taming an invading force. That means that we learn about it and become knowledgeable about it so that we can understand its workings so well that we find solutions to its destructive elements as we selectively indigenize it. Since we seem to be destined to make use of the internet despite surveillance capitalism, we must confront it effectively from our perspective as Native peoples. Shoshana Zuboff, the scholar and now activist who coined the term surveillance capitalism in the scholarly and popular realm, urges users and developers alike to sift through the evidence and create words to denote its likely impacts upon people.<sup>30</sup> Tribal language is, of course, one of the most powerful routes to knowledge and understanding for indigenous peoples. I am personally interested in what name the Oneida (Onu yote a'ka) will give to the surveillance capitalism phenomenon in the years ahead. Though our language may be threatened in day-to-day interactions, having a term for the colonial, exploitive system of surveillance capitalism would help our people communicate among kinsfolk to find strategies that tame it.

These few suggested ways tribes can exercise their existing sovereignty are hardly exhaustive, since tribal sovereignty under US law continues to evolve as this paper is written. With great good luck, sovereign tribes will continue to gain more authority over their own cyberspace in the years ahead. It is sure to be a vital space for them to retain, since they clearly have the right to their own radio/air/cyberspace as sovereign nations. In respecting tribal sovereignty as an arena of continued struggle and development for each tribe, we will leave it for tribes themselves to rally their own members to deal with the dangers of surveillance capitalism on their own terms within their homelands.

### **Spectrum Sovereignty: A Niche for Tribes in the Regulation of Surveillance Capitalism?**

Of course, tribes could themselves create legislation and accompanying regulations as they issue licenses under authority that might emerge from their efforts to gain greater spectrum sovereignty within tribal jurisdictions. Though they do not have recognition of that authority yet, since as Marisa Elena Duarte found in her excellent book entitled, *Network Sovereignty: Building the Internet Across Indian Country*,<sup>31</sup> spectra for the radio waves over tribal nation lands are currently administered by the FCC. When tribes tried to create radio stations under their own laws in the 1970's, they often were frustrated by the fact that outside businesses had already taken most of the FM and AM radio spectra, leaving only a few that were either simply not assigned, were held but never developed by commercial interests, or that were reserved by the FCC for innovation or emergency services as yet undeveloped. Tribes sometimes had to apply for

---

<sup>29</sup> An interesting product of the Vine Deloria, Jr. Symposium is a series of video recordings of symposium sessions. <https://settingsunproductions.org/recordings>. The symposium website is located at <https://www.nwic.edu/about-nwic/nwic-vine-deloria-jr-symposium/>. Accessed 22 Mar 2022.

<sup>30</sup> Zuboff, p. 61-62.

<sup>31</sup> Marisa Elena Duarte, *Network Sovereignty: Building the Internet Across Indian Country*, Seattle: Univ. of WA Press, 2017. Duarte provides a useful history of internet development in Indian country, including profiles of already established tribal projects as a part of her fine study. P. 38-49.

low-power radio stations as a result, since they were not named as governing bodies under the Federal Communications Act of 1934.<sup>32</sup> Under the Native American Telecommunications Act of 1997, though, the FCC was required to “...engage with American Indian and Alaska Native tribal governments and identify ways of promoting the development of infrastructure and spectrum licensing on and around tribal lands.”<sup>33</sup> Today, those expensive licenses to spectra are still often held by non-tribal internet companies who “squat” on those frequencies but do not develop them, claiming they are not yet profitable. The FCC still has the authority to issue licenses on tribal lands. According to Duarte, the FCC, at the urging of tribes, is now “...looking into creating a tribal priority for licensed spectrum, a use-it-or-lose-it policy, and opening up frequencies for more unlicensed uses.”<sup>34</sup> Those frequencies could now be sought by tribes. A policy overview of the American Indian Policy Institute deals very effectively with the history and specifics of spectrum sovereignty issues in Indian country, especially the history of precedents that have helped clarify the authority of tribes in gaining access to spectra in and near tribal lands. The overview concludes saying

*Tribes must exercise their sovereign right to access and utilize this natural resource. Spectrum frequencies are finite and as the internet continues to permeate everyday life, these frequencies will be obtained and held onto by industry because of its intrinsic value. The federal government, as trustee to Tribal Nations must also understand and address the historical and present-day barriers that prevent tribal participation in spectrum auctions and the inability of tribes to access spectrum through secondary market mechanisms. Providing tribes with access to spectrum licenses provides an opportunity for tribes to construct their own wireless networks or leverage the licenses to attract service providers to bring telecommunications services to tribal lands for the benefit of their communities and economies.*<sup>35</sup>

The idea of spectrum sovereignty, of course, is broader than just seeking FCC licensing of tribal radio, television, broadband satellite and wireless signals. In fact, as greater and greater demands for spectra is likely in the years ahead, tribes may wish to assert authority to displace the FCC within certain ranges of the spectra and regulate any licensing or other uses of those spectra themselves, perhaps in partnership with the federal government and its FCC to maintain continuity and assure that trust responsibilities of the federal government remain in effect. That may seem a far-fetched proposal at this time, but tribal sovereignty would seem to imply that tribes ought to have such authority over their own airwaves. At the least, tribes ought to be able to specify terms of licensing to include protections from surveillance capitalism for their people over those operating within tribal airwaves. One can imagine that advocacy among tribes and tribal organizations in this area of federal law and policy may become ever more necessary to advance the interests of tribes and their members in the burgeoning technological times to come. The nascent Native Nations Communications Task Force could advocate now for tribal authority

---

<sup>32</sup> For copy of the Federal Communications Act of 1934, as amended in 1995, please see *Federal Communications Act of 1934, as amended by the Telecom Act of 1995*. <https://transition.fcc.gov/Reports/1934new.pdf> . Accessed 22 Mar, 2022.

<sup>33</sup> Duarte, p 113.

<sup>34</sup> Duarte, p. 172.

<sup>35</sup>“Spectrum Airwaves: A Natural Resource Tribes Must Leverage,” by Brian Howard, Research and Policy Analyst, American Indian Policy Institute, AZ St. U. October 16, 2019, p. 8. [https://aipi.asu.edu/sites/default/files/10.16.2019\\_aipi\\_fcc\\_spectrum\\_policy.pdf](https://aipi.asu.edu/sites/default/files/10.16.2019_aipi_fcc_spectrum_policy.pdf). Accessed 12 Dec. 2021.

in licensing and regulation within the FCC. After all, anticipating the future of the internet and its associated technologies is crucial to development of policies tribes might consider for regulating surveillance capitalism as it licenses many aspects of the internet that will become crucial parts of their communications and economic development plans.

The Federal Communications Commission's Native Nations Communications Task Force (NNTF), was created in 2011 during the Obama Administration. The FCC's Office of Native Affairs and Policy, Native Public Media<sup>36</sup> and the National Congress of American Indians<sup>37</sup> had all been active in advocating for ways to bridge the digital divide in Indian country and the NNTF has become a major way to focus such efforts with the support of the federal government. Most tribal communities already have services available to tribal members and tribal operations from low-quality infrastructure or sometimes exploitive non-Indian controlled commercial services, and the Federal Communications Commission has responded to a resolution of the National Congress of American Indians and others by creating the task force. It is made up of 26 tribal representatives from across the U.S. and eight "senior officials" of the FCC. Interestingly, the FCC claims Native membership on the task force is balanced by region of the US and is made up of nominees who gain the endorsement of their tribal governments. The FCC itself then selects task force members "...to balance the expertise and viewpoints necessary to effectively address the issues to be considered by the Task Force, and to ensure appropriate representation of diverse Tribal views."<sup>38</sup> Some hope that tribal sovereignty might be better expressed in such a forum in the near future, but members seem hopeful that tribes' voices are a high priority in the advisory-level function of this task force. Names of current tribal nations' representatives to the task force can be found on the website for possible input from those interested in discussing issues related to broadband development in Indian country.

While the task force was mostly created to serve as a bridge over the "digital divide," meaning its priority is overcoming barriers to broadband infrastructure and spectrum distribution within Indian country, other issues could and should be brought to its attention, including the challenges of surveillance capitalism in the internet. Since the FCC is in charge of the distribution and monitoring of radio wave spectrum in the US, tribes have found their consultation rights there to be their best current avenue to development of broadcast media and broadband, including wireless and even satellite spectra under tribal-federal initiatives.

In passing, it is important to note that one might well ask whether the concept of tribal sovereignty is adequately dealt with in the FCC's actions, but it appears that question is moot for now, since no one seems to have an answer for the question of how tribes would themselves administer spectra and radio/broadcast regulations that reach across borders of tribal lands into non-tribal communities and vice versa. Surrounding entities and governments have long been subject to the federal imposition of regulation under the Federal Communications Act of 1934. While the assumption of the power over spectra in Indian country by the FCC seems to be in conflict with the government-to-government relationship between tribes and the federal government, perhaps tribal nations can formally submit a waiver of sovereignty over the subject matter as place-marker for this issue while cooperating without ceding this crucial aspect of sovereignty. In 2014, the National Congress of American Indians adopted

---

<sup>36</sup> "Welcome: We Advocate and Provide Support Services to Indigenous Media Broadcasters," *Native Public Media*. <https://www.nativepublicmedia.org/> . Accessed 23 Mar. 2022.

<sup>37</sup>Telecommunications and Technology," *National Congress of American Indians*. <https://www.ncai.org/policy-issues/economic-development-commerce/telecomm-and-tech> . Accessed 28 Feb. 2022.

<sup>38</sup> "FCC Announces Vacancies in the Membership of its Native Nations Communications Task Force and Seeks Nominations," Public Notice, Federal Communications Commission, July 2, 2019.

Resolution #ANC-14-015 “calling on Congress to Establish Formal Recognition of Tribal Sovereignty and Tribal Consultation in the Communications Act.” Though the FCC has issued a statement of policy that would cover that situation, without legally binding legislation, it is a fragile recognition of the sovereign powers of Native nations that could waver as politics change with elections.<sup>39</sup>

The idea of advocating for regulatory or legislative action through this task force to force Big Tech to change its data-gathering hysteria may seem naive as this paper is written. After all, as Shoshana Zuboff and Doctorow have documented so well, corporations take little responsibility for the impacts of that business model upon users and society and have externalized the costs to users of lost privacy rights. And, of course, the revenues they gain are the very life blood of the entire industry, which is among the most lucrative in the world. Even when the FCC tried to establish privacy language that required user consent for use of their private information in broadband privacy regulations intended for local internet service providers, Republicans in Congress passed a resolution against them in 2017, effectively killing the FCC’s years-long development of those regulations. Thus, at the Internet Service Provider (ISP) level so crucial to broadband as it is extended to Indian country today, little protection for personal data was allowed by Congress.<sup>40</sup> Politics have affected administrative authority in other actions of the FCC before, seemingly requiring a formal, legislation to establish a clear position for tribal sovereignty in this arena. As always, the backstop frequently relied upon, the federal trust responsibility to shield tribal sovereignty, would remain an important adjunct to any legislation, though that might require court action that could wind up in adverse court decisions, given the continuing movement of Republicans to appoint conservative judges.

Though the FCC Native Nations Communications Task Force (NNCTF) is not an enforcement arm of the federal government for regulating the actions of those involved in surveillance capitalism, it might provide a forum for many issues in addition to finding solutions to the digital divide that Native nations face. In the case of surveillance capitalism practiced by the dominant internet services, one can hope tribal representatives can represent the desires of members and take action to urge regulatory or licensing solutions, or even the enforcement of anti-trust laws in the case of Big Tech influences. That would seem to be one of the major reasons for selecting tribal representatives in the first place, in addition to the ideas of “consultation,” which was often practiced in the past in the minimalist level of simply informing tribes of the actions to be taken that may affect them.

If the NNCTF has authority to vote or recommend actions for legislation, or to create new regulations on the issues involved, tribes might be able to emerge with some guarantees like the European Union restrictions on surveillance capitalism, even though Republicans in Congress seem unlikely to support any legal restrictions as a part of their penchant for ending government regulation and privatization of so much of the economy. Still, it is instructive to consider the privacy protections included in the General Data Protection Regulation that took effect in 2018. They are listed in Shoshana Zuboff’s 2019 book entitled *The Age of Surveillance Capitalism: A Fight for a Human Future at the New Frontier of Power*:

---

<sup>39</sup>*Tribal Technology Assessment: The State of Internet Service on Tribal Lands*. American Indian Policy Institute, Arizona State University. Fall, 2019. Page 41.

[http://www/aipi.asu.edu/sites/default/files/tribal\\_tech\\_assessment\\_compressed.pdf](http://www/aipi.asu.edu/sites/default/files/tribal_tech_assessment_compressed.pdf). Accessed 6 March 2022.

<sup>40</sup> Shoshana Zuboff, *The Age of Surveillance Capitalism: The Fight for a Human Future at the New Frontier of Power*. New York: Public Affairs, 2019, p. 170-171. For a statement on the recognized need for such regulations, see a statement by then-FCC Chairman made before Congress stepped in to kill the regulations: Tom Wheeler, “Protecting Privacy for Broadband Consumers,” 6 October 2016. <https://www.fcc.gov/news-events/blog/2016/10/06/protecting-privacy-broadband-consumers>. Accessed 7 Mar 2022.

*The regulations introduce several key new substantive and procedural features, including a requirement to notify people when personal data is breached, a high threshold for the definition of “consent” that puts limits on a company’s reliance on this tactic to approve personal data use, a prohibition on making personal information public by default, a requirement to use privacy by design when building systems, a right to erasure of data, and expanded protections against decision making authored by automated systems that imposes “consequential” effects on a person’s life. The new regulatory framework also imposes substantial fines for violations, which will rise to a possible 4 percent of a company’s global revenue, and it allows for class-action lawsuits in which users can combine to assert their rights to privacy and data protection.<sup>41</sup>*

In the United States, there are no such protections. Besides, many argue, those regulations are enforceable in Europe only and often do not go nearly far enough to limit the power of global Big Tech to maintain its actions to gather and use proprietary analytics to subvert the privacy of users for corporate gain.

### **The Federal Trade Commission (FTC) and Indigenous Internet**

It is the Federal Trade Commission which has been delegated the duty of enforcing federal laws and internet regulations. State legislatures, too, could enact new legislation, though in the global context of the internet, enforcing those regulations might become problematic and Indian country is outside the scope of state laws. Nonetheless, new legislation is being considered on several fronts that might help alleviate the problems that tribes will experience as surveillance capitalism develops into ever widening methods of gathering personal data. At present, no specific regulations or enforcement activities in Indian country seem to be a part of FTC priorities. It has mainly dealt with the illegal marketing of arts and crafts falsely claimed to be made by Native Americans in media. No enforcement of protections of specifically Native privacy rights showed up in searches of the FTC website. In fact, the FTC has not taken action on privacy rights that might help counter surveillance capitalism on behalf of Americans at all. This commission is likely to begin further policy-making in the areas of privacy rights and of Native American communications, though, as tribal organizations gain greater standing under legislation and policy in the future. As mentioned earlier, anti-trust laws and regulations often remain on the books, but enforcement has not been pursued, largely because of the anti-regulation stance of conservative politicians and the many industry lobbyists who have dominated policies that might limit the growth of corporate development. Thus, regulation and legislation take place in a political battleground, limiting any effective action in Congress or state legislatures.

According to the Federal Trade Commission’s website, the only remedy for users who feel they have been treated unfairly in the use of their private information is to file a complaint that focuses upon how the company violated specific aspects of the company’s own promises in its privacy policy or user agreements, which generally appear online. Since those items are often presented to users at inopportune moments, there is little opportunity for users to carefully read long sections of extremely dense legal terminology and make an informed decision. That very weak gesture toward gaining informed consent has done little to protect users. In addition, a user often has no alternative program to meet her/his needs

---

<sup>41</sup> Shoshana Zuboff, p. 481.

at the moment she/he is offered the chance to read user policies because the company's service is a de facto monopoly. That forces a user to agree to any terms presented if he/she wishes to complete the task at hand. And, in the world of Big Tech, any other competing service that may somehow meet the need also presents very similar agreement terms for similar services. It is hard to see how the informed, voluntary consent of users can be gained in this situation, but so far, the Federal Trade Commission has not seen this situation as an illegal taking of users' private information. Users in the US are simply at the mercy of gigantic corporations in their use of algorithms to compile, process and sell personal data to their advertisers, political organizations and any other clients who are willing to pay.

It is the business model for an entire industry which charges little or nothing of its users but gains that lucrative part of the market in serving clients. Though users might find the "free" services extremely attractive, the costs they bear in terms of their personal sovereignty over private information, especially when it is used to manipulate them, is simply unrecognized. Again, as the American Indian Policy Institute document cited above says, the US Congress needs to legislate that the FCC must act in compliance with federal recognition of tribal sovereignty, federal trust responsibility and in light of the standing tribal nations have as sovereign Native nations. It is a standing based upon treaty and federal/tribal laws. Only when that status is recognized in clearly worded law can tribes demand attention to the very serious problems created by surveillance capitalism while protecting the sovereign powers of indigenous nations. Perhaps in the near future, through such mechanisms as the NNCTF, tribes can gain a clear right to engage as partners in federal legislation that will protect tribal members from Big Tech's questionable uses of personal data.

### **Regulation and Legislation – sources and suggestions for possible tribal resolutions and United Actions**

As this paper is written, a number of initiatives in state and federal legislatures are under way despite the political gridlock that stymies enforcement of anti-trust laws. First, at the federal level, the International Association of Privacy Professionals reports regularly on developments on all aspects of privacy legislation. The association's website is a breath of fresh air on the often-opaque world of internet and other threats to privacy, providing news and analysis of very current actions of Congress, the courts and even state initiatives in privacy matters.<sup>42</sup> While the site is intended for professionals, it remains a go-to location for up-to-date actions that might well suit tribal professionals and IT personnel who will likely be tasked with meeting privacy challenges. It can be hoped that many of these pros are already well aware of the site. It offers some excellent orientation for those new to the study of these issues as well. The National Congress of American Indians is likely to benefit from such information too. It is useful for not only those concerned with surveillance capitalism, but also for those working on issues related to tribal data sovereignty in the larger sense, as was mentioned earlier in this paper (page 8). Tribes might make use of the existing "consultation" requirements of federal Indian policy to advocate for certain provisions in the initiatives now underway beyond indigenous lands. In that way, their concerns might find greater support among potential partners with similar interests and confront the dangers of huge corporations and their reliance upon surveillance capitalism.

As mentioned above two scholars have proposed ways to counter the effects of surveillance capitalism in the larger, global internet realm. Shoshana Zuboff advocates legislation and regulation to outlaw its worst aspects while Cory Doctorow favors the enforcement of anti-trust laws in breaking up Big Tech.

---

<sup>42</sup> Muge Fazlioglu, "US Federal Privacy Legislation Tracker," <https://iapp.org/resources/article/us-federal-privacy-legislation-tracker/>, Accessed 13 Mar. 2022.

In fact, Doctorow believes breaking up Big Tech is a vital first step toward breaking up monopolies throughout the US economy, asserting that now is the time to confront a broken economy based upon monopoly corporate capitalism that leads to inequality. Together, these non-Indian authors provide an excellent profile of the dangers of surveillance capitalism. With the cooperation of the many levels of users, perhaps those dangers can be averted. Mobilizing users will be the key.

## **Data Sovereignty, Surveillance Capitalism, Government Surveillance and Cybercrime**

Autonomy of action for tribal citizens and their governments are threatened by several aspects of data gathering and policy-making that are controlled by outside researchers, policy-makers, academic organizations and now, by commercial and political interests without due consent of indigenous peoples. Besides the issues raised by surveillance capitalism, which is the topic of this paper, serious violations of privacy and indigenous sovereignty continue from supposedly benign, and even beneficial, public health, social welfare, educational and economic and even census-gathering organizations. According to a Native Nations Institute policy brief,

*In the United States, the processes of colonization have led to a state of data dependency in Indian country. Federal policies of assimilation, forced removal, relocation, residential schooling and other cultural ruptures led many tribes to rely on external sources of information about their communities' economic, environmental, and health status. This data dependency produces a paradox of scarcity and abundance: extensive data are collected about tribes, but rarely by tribes or for tribal uses. As a result:*

*>existing indigenous data are inconsistent, inaccurate, or irrelevant to tribal goals;*

*>the collection, ownership, and application of indigenous data are controlled by external entities;*

*>an extensive history of exploitative research and policy has left a legacy of mistrust of data; and*

*>a lack of data infrastructure and capability cripples tribal efforts to overcome these obstacles.<sup>43</sup>*

While that issue is in addition to the problems presented by surveillance capitalism, it should be considered as a part of any broad review of the impacts of the internet on Indian country. This paper also does not deal extensively with two other major problems that ride on the internet: cybercrime and government surveillance. Users must deal with daily fraudulent messages from “followers” who are trying to blackmail or bilk them in the form of phishing schemes, for instance. In addition, government agencies like the Central Intelligence Agency, the Department of Homeland Security and the Defense

---

<sup>43</sup> Rodriguez-Lonebear, D. (2016). “Building a Data Revolution in Indian Country.” In T Kukulai and J. Taylor (Eds.) *Indigenous Data Sovereignty*, Canberra, Australian National University Press. In Stephanie Carroll Rainie, Desi Rodriguez-Lonebear and Andrew Martinez, 2017, *Policy Brief: Indigenous Data Sovereignty in the United States*. Tucson, Native Nations Institute, Univ. of AZ. [https://nni.arizona.edu/application/files/1715/1579/8037/Policy\\_Brief\\_Indigenous\\_Data\\_Sovereignty\\_in\\_the\\_United\\_States.pdf](https://nni.arizona.edu/application/files/1715/1579/8037/Policy_Brief_Indigenous_Data_Sovereignty_in_the_United_States.pdf). Accessed 12 Mar. 2022.

Intelligence Agency all conduct surveillance online. Recently, some major instances of that surveillance were uncovered by a Congressional committee.<sup>44</sup> In the inquire into the CIA's surveillance, it was revealed that operatives actually purchased internet data from Big Tech sources in their work. Violations of private user data without adequate prior, informed consent in surveillance by corporate, government and criminal organizations leads to a deep-seated lack of trust that can influence people's faith in the entire internet system and in public institutions as well, creating a xenophobic reaction to one's media and social landscape. As the campaign to reverse the damage from the related issues surrounding data sovereignty gathers momentum, then, it is especially important to consider whether and how native nations might also reduce the harm presented by surveillance on the internet as a part of that endeavor. When one adds the emerging concerns over data sovereignty, government surveillance and cybercrime to the issues raised by surveillance capitalism in Indian country, one can see the challenges tribes face as new opportunities to connect with high-speed broadband technology become available.

### **Creative Solutions: User Options and Indigenous Tech Warriors in Internet Development**

In addition to education among tribal members in culturally appropriate ways, computer literacy for both young people and "olders" is crucial in the struggle to assure internet usage can be a positive force in supporting tribal sovereignty. In formal education across the generations and in informally, in the homes of users, "best practices" can be encouraged, where intergenerational and kinship values might be strengthened in the process. A suggestion for teaching one's kinfolk about the internet is that one begins with readily available sources online like Wikipedia, which is generally more understandable and links to deeper sources in its text.<sup>45</sup>

Also, youth can be encouraged to use their often surprising, budding computer skills as a part of their own educational goals, gaining the training needed to become tech warriors. Information and communications technology credentials are already sought by quite a few college-aged Native youth because of the great need for tribal professionals in ITC departments of the tribe. Learning the highly technical skills necessary to operate tribal educational programs and work in IT departments could lead to high morale jobs for youth who wish to serve the needs of their tribal members. Existing programs at the college level, like the American Indian Science and Engineering Society<sup>46</sup> and American Indian Business Leaders<sup>47</sup> provide avenues for development of tribally-appropriate training in computer and other high-tech professional fields.

Cyber warriors should consider how they can help at the very pinnacles of computer research, too. Current development of blockchain (ledger) computer systems,<sup>48</sup> the idea of the internet computer, and the much-heralded quantum computing revolution could lead to innovations that might be developed for

---

<sup>44</sup>Chris Mills Rodrigo "Major Government Surveillance Revelation Fails to Make a Big Splash," *The Hill*. 29 Mar. 2022. <https://thehill.com/policy/technology/598809-major-government-surveillance-revelations-fail-to-make-a-big-splash> . Accessed 21 Mar. 2022.

<sup>45</sup> "Internet," *Wikipedia, the Free Encyclopedia*. <https://en.wikipedia.org/wiki/Internet>. Accessed 18 Mar 2022.

<sup>46</sup> *American Indian Science and Engineering Society*. <https://www.aises.org/> . Accessed 23 Mar. 2022.

<sup>47</sup> "Equipping Indigenous Leaders," *American Indian Business Leaders*. <https://www.aibl.org/> . Accessed 23 Mar. 2022.

<sup>48</sup> For an interesting documentation of the current status of blockchain development, see Evan McFarland, *Blockchain Wars: The Future of Big Tech Monopolies and the Blockchain Internet*. Los Vegas: Author self-published, 2021. In addition to his explanations of blockchain technology, McFarland offers some poignant comments on privacy issues in his second chapter entitled "The Death of Privacy," and how blockchain might offer solutions, p. 26-49.

tribal uses. Of course, with so much future development possible in the years ahead, surveillance capitalism could eventually be circumvented as new alternatives to the present user-server system of the internet are developed. If new programming and/or hardware emerge that provide viable alternatives to the current systems that are dependent upon Big Tech, of course, other services could emerge that make surveillance capitalism obsolete. That is only a dream at present, but indigenous tech warriors could be instrumental in finding new technological alternatives in ways we can only imagine today.

Current alternatives to Big Tech do exist online, too. They include competitors and start-ups like ProtonMail in competition with such email services as Gmail, a Google service which is deeply involved in surveillance capitalism. Encryption at both ends of email messages is necessary for this alternative to shield users from surveillance, making this alternative difficult for users, who would have to encourage those who receive their email also use the alternative service. The economics of such an alternative as ProtonMail means that users support is necessary to replace the advertiser-driven economics of surveillance capitalism. Getting used to paying for one's email services would be a difficult hurdle, though one might think in terms of crowd sourcing, industry-wide donations or even government subsidies in the future. (In fact, a PBS-like public internet system might even be necessary one day, though again, such a major alternative seems beyond the do-able options today.) An interesting review of ProtonMail can be found online.<sup>49</sup> ProtonMail currently features a free user's level of subscription.

Avoiding FaceBook's data harvesting is also possible, with the caveat that since one's "friends" are so deeply committed already to FaceBook, it may be difficult to get them to change with you as you try to avoid Big Tech data harvesting. Users would be presented with the same alternative as when switching email. All one's friends would have to use encryption-protected accounts to effectively circumvent surveillance capitalism. That is still a do-able process, though, if people can be motivated to make the commitment to change. A review of currently available, encrypted social media services is available online as well.<sup>50</sup>

Examples of alternative search engines that feature privacy and shields from the greater dangers of surveillance capitalism, like DuckDuckGo, are also available. That service currently offers a free level of service and premium services for a fee. A review of such search engines also appears online.<sup>51</sup> Searches have been dominated by Google for so many years that switching to DuckDuckGo seemed odd at first, but for this author, it has worked very well and has the added bonus of not pre-selecting one's search results based upon my past searches. That works at the initial search level, but once one selects a site from the search results, one is back in the land of surveillance capitalism as so many websites use Google analytics for both their own services and to link the data gained within their sites to Big Tech.

Since surveillance has become recognized as a major problem on the internet in very recent years, a number of start-ups like these have appeared but have yet to survive in the long-term against the huge Big Tech systems that do not charge users directly for services. The many interoperable features of Big Tech services at no cost to users, and their entrenched positions in the market for internet services, remain their biggest advantages. Still, encouraging tribal members to make use of alternative services when they can afford them is one partial solution to the mining of their personal information by Big Tech. It

---

<sup>49</sup> Heinrich Long, "ProtonMail Review 2022 – The Good and the Bad," Restore Privacy, 13 Feb 2022. <https://restoreprivacy.com/email/reviews/protonmail/> . Accessed 18 Mar 2022.

<sup>50</sup> Brad Stephenson, "The 8 Best Facebook Alternatives in 2021," *Lifewire: Tech for Humans*. 3 Jan 2022. <https://www.lifewire.com/best-alternatives-to-facebook-5116825> . Accessed 18 Mar 2022.

<sup>51</sup>Sven Taylor, "10 Best Private Search Engines for 2022 (No Logging)," 10 Mar. 2022. Accessed 18 Mar 2022.

sometimes seems a band aid approach, but if enough users make the adjustments, Big Tech may have to respond, at least by making some compromises in their current business model of surveillance capitalism.

### **Imagining Internet Sovereignty in the Digital Age – without surveillance!**

In the writing of this paper, this author has had to reach well beyond his comfort zone in research, delving into areas of technological development that are so new and are so much in flux that it has been difficult to grasp the human challenges presented by a new environment of cyber-reality. The Black Box in new technology, that growing, incomprehensible void of the cybersphere, can be frightening in its omnipresence in our lives. For Native nations, the present extension of broadband services under the auspices of the Federal Communications Commission presents an opportunity to consider the vast benefits and the troubling downsides of internet development as it comes to Indian country with renewed commitment under the Biden Administration. As the Native Nations Institute at the University of Arizona calls for data sovereignty in Indigenous homelands, an equally vital call for ending the colonial business model of surveillance capitalism in tribal internet services needs to be made. While tribal communities are a relatively small portion of the overall internet user population, as sovereign peoples, they ought to be able to escape the dangerous surveillance on their personal lives that comes with the dominance by Big Tech in internet communications. Even though the mass society remains subject to their irresponsible business model, Big Tech's surveillance capitalism should have special meaning to indigenous peoples of this country. After enduring generations of cultural genocide and policies of assimilation, indigenous people ought not be subjected to further exploitation by an economic system that harvests data about their personal lives without their meaningful consent. Today's statements of federal Indian law and policy have begun to condemn the government's own earlier colonial policies of exploitation and now claims to protect tribal peoples under its trust responsibility and government-to-government and treaty relationship with tribes.

Whether or not the federal government can protect its own citizens from surveillance capitalism as this paper is written, it is bound to protect indigenous peoples by its own laws and by its endorsement in 2010 of the UN Declaration of the Rights of Indigenous People. In that document, member nations agree to work with leaders duly selected by indigenous peoples themselves to assure their "free, prior, and informed consent..." in any nation-state legislative or administrative action that affects them.<sup>52</sup> In the case of surveillance capitalism, it can easily be argued that lack of regulation of the taking of personal data of indigenous people by corporations duly licensed by the federal government is a direct violation of this article. Whether the US can muster the political will to follow through on its commitments in the UNDRIP and under its own treaties, laws and regulations is always in doubt, especially in these times of political stalemate and potential disasters from so many directions at once. Perhaps by recognizing the threat to the survival of indigenous peoples in internet services, people of the US can realize that they, too, are similarly threatened by surveillance capitalism. Perhaps ending the threats of surveillance capitalism could also help avert be the very real danger that the monopolies and oligarchy that is emerging along with it may be an effective option for building consensus among peoples for dealing with other massive issues. One can hope.

---

<sup>52</sup> *United Nations Declaration of the Rights of Indigenous People*. Article 19, Resolution 61/295 adopted by the General Assembly on 13 September 2007. United Nations General Assembly. [https://www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2019/01/UNDRIP\\_E\\_web.pdf](https://www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2019/01/UNDRIP_E_web.pdf). Page 16. Accessed 18 Mar 2022.

As a practical matter, it is crucial now that native peoples recognize the harm that comes with surveillance capitalism's exploitive, colonial business model as it makes ever greater inroads into Indian country. They ought to have the right to reject that exploitation as they nativize the high-tech internet for their own purposes. That should not mean they should delay the processes of connecting to broadband internet, now under way throughout Indian country. As Article 16 of the UN Declaration says, "Indigenous peoples have the right to establish their own media in their own languages and to have access to all forms of non-indigenous media without discrimination."<sup>53</sup> The need to bridge the digital divide is pressing and politics and funding have already delayed timely connections in the recent past. To expedite the process while still leaving a "bookmark" to deal with issues of surveillance capitalism, tribes might consider an option like issuing a statement through their selected officials to the effect that the connections should continue apace, but that they retain the right to link to broadband services while still pursuing solutions to issues raised by surveillance capitalism. Obviously, that suggestion is only one method for moving forward and tribal legal experts and others might caucus on the issue or simply wait until connections are made to press for a remedy. But they should not simply dismiss the fact that indigenous people have a right to press for the end of the dangers presented by surveillance capitalism.

In the meantime, this author recommends that indigenous peoples should consider the issues raised by massive surveillance that is already well under way through existing internet services in Indian country. I hope by gathering some of the information about the issues, this paper might at least give tribal higher education students, influential scholars, tribal government officials and internet developers further impetus for investigating impacts of surveillance capitalism upon tribal citizens. I am confident that they will find appropriate strategies that will reach well beyond those offered here. Their experiences in tribal affairs and the needs of their peoples make them the best communicators and strategists. Tribes can depend upon them for their recommendations and wisdom in dealing with an issue that left unchecked, will have impacts on generations to follow. Now is soon enough!

### **Conclusions: Dealing with Surveillance Capitalism in Indian Country**

Finding practical strategies for protecting indigenous internet users from the violations of their privacy rights and their personal autonomy in decision-making requires some broad understanding of the nature of both surveillance capitalism and of human behavior. People who are unaware that their information systems are manipulating them cannot be expected to find effective solutions to the exploitation involved. Since surveillance capitalists often work on the subliminal level and have worked hard for years at successful methods for keeping users continuously "engaged," some tribal members may already be approaching the level of addictive behavior when using social media. It is hoped that this paper has contributed at least some perspective on those threats and that locating some of the possible solutions has been useful, if even as an adjunct to processes already in progress in such forums as the National Congress of American Indians, the ASU Native Nations Institute and in the FCC's Native Nations Communications Task Force and many others. Of course, organizations created within tribes and in indigenous studies programs of higher education continue to offer possible adaptive solutions.

Yet indigenous people around the world can benefit greatly from better access to broadband. That fact is undeniable. Imagining the internet without surveillance capitalism is a vital first step in making it so. If native peoples can continue their impressive efforts to exercise their sovereignty online, great good things are likely to happen. Without Big Tech's cynical exploitation of its own users' personal data, tribes and indigenous individuals can expect a continued renaissance of tradition, innovation and even improved

---

<sup>53</sup> Ibid, Article 16, p. 14.

relationships with their non-Indian neighbors and the Earth. It is time for tribal computer users, developers and others to peer into the Black Box and seek new knowledge of its contents from the perspective of the generations of indigenous peoples who have struggled to remain indigenous thinkers. For the youth, for the elders and for the Earth – Oneh! Waklihanha·kú<sup>54</sup>

---

<sup>54</sup> “I have ended my speech,” *Oneida Language Dictionary*. <https://www.uwgb.edu/dictionary/sound.aspx?citation=-lihwanhak-&pos=verb> . Accessed 23 Mar. 2022. Perhaps klihwánhaks (I tie up my words) works better here. I’ll ask an elder....